

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSE E. HERNANDEZ : CIVIL ACTION
vs. :
DAVID DIGUGLIELMO, et al. : NO. 08-CV-4748

ORDER

AND NOW, this 18th day of February, 2009, upon careful and independent consideration of the Petition for Writ of Habeas Corpus, the Response thereto, and after review of the Report and Recommendation of United States Magistrate Judge Henry S. Perkin dated January 27, 2009 and the Petitioner's Objection thereto, it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED;
2. The Petition for Writ of Habeas Corpus is DENIED with prejudice and DISMISSED without an evidentiary hearing; and
3. There is no probable cause to issue a certificate of appealability.

BY THE COURT:

s/J. Curtis Joyner
J. CURTIS JOYNER, J.